

Docket No: AF01196

Serial No. 10/731,659

REMARKS

Upon entry of the present Reply, claims 1-20 are pending in the application. Claims 1, 4-6, 10 and 13-15 are amended herein. Support for the amendment of claims 1 and 10 may be found, for example, in claims 4 and 13 as originally filed. Support for the amendment of claims 4 and 13 may be found, for example, in the specification at page 18, lines 24-25. Claims 5 and 6 are amended to refer to claim 1 instead of claim 4, and claim 5 is amended to insert the term "content" following "second hydrogen", since this term was erroneously omitted from the original claim 5. Claims 14 and 15 are amended to refer to claim 10 instead of claim 13, and claim 14 is amended to insert the term "content" following "second hydrogen", since this term was erroneously omitted from the original claim 14.

Applicants thank the Examiner for his careful consideration of the present application.

For the reasons set forth below, Applicants respectfully request reconsideration of the application, withdrawal of the asserted rejections of Applicants' claims, and allowance of all presently pending claims.

Rejection of Claims over Shiraiwa et al.

Claims 1-20 stand rejected over U.S. Patent No. 6,740,605 B1 to Shiraiwa et al., as either anticipated thereby or obvious thereover. Applicants respectfully traverse the rejection of these claims over Shiraiwa et al. for the reasons set forth in the following.

Claims 1-3 and 10-13 stand rejected as anticipated by Shiraiwa et al. Claims 4-9 and 13-20 stand rejected as obvious over Shiraiwa et al. Claims 1 and 10 have been amended to incorporate the features of claims 4 and 13 respectively. Thus, as amended, all of the presently pending claims would be rejected only under Section 103(a) based on the Examiner's positions set forth in the Office Action. However, since the invention of the present application and that of Shiraiwa et al. were commonly owned or subject to an obligation of assignment to a common entity, Section 103(c) applies to remove Shiraiwa et al. as the basis for rejecting the claims.

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Statement of Common Ownership

The present application and U.S. Patent No. 6,740,605 B1 were, at the time the present invention was made, subject to an obligation of assignment to and/or were commonly owned by Advanced Micro Devices, Inc. and Fujitsu, Ltd., which common ownership presently resides in the joint venture known as FASL, LLC.

The present invention is assigned to FASL, LLC., which is a joint venture of Advanced Micro Devices, Inc. and Fujitsu Ltd. At the time the present invention was made, it was subject to an obligation of assignment to the joint venture of Advanced Micro Devices, Inc. and Fujitsu Ltd., now known as FASL, LLC. Shiraiwa et al., U.S. Patent No. 6,740,605 B1, is assigned on its face to Advanced Micro Devices, Inc. and Fujitsu Ltd. U.S. Patent No. 6,740,605 B1 subsequently was assigned to FASL, LLC., which assignment was recorded in the USPTO on 23 July 2004 at Reel/Frame: 014892/0218.

Shiraiwa et al. Does Not Preclude Patentability Under 35 U.S.C. §103

Because Shiraiwa et al. is available as prior art only under 35 U.S.C. §102(e), and because Shiraiwa et al. and the present invention were, at the time the present invention was made, subject to an obligation of assignment to and/or were commonly owned by the same person, under 35 U.S.C. §103(c), Shiraiwa et al. "shall not preclude patentability" of the claims of the present application under 35 U.S.C. §103(a).

Accordingly, Applicants respectfully request the Examiner to withdraw the rejections of Applicants' presently pending claims over Shiraiwa et al.

Obviousness-Type Double Patenting

Claims 1-20 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of co-pending application Serial No. 10/731,494.

Although Applicants respectfully traverse the conclusion that the presently pending claims would have been obvious over claims 1-20 of co-pending application Serial No. 10/731,494, upon which the rejection for obviousness-type double patenting

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is based, Applicants submit herewith a terminal disclaimer in accordance with 37 CFR § 1.321(c) in order to obviate the rejection.

Accordingly, Applicants respectfully request the Examiner to withdraw the obviousness-type double patenting rejection over claims 1-20 of co-pending application Serial No. 10/731,494.

CONCLUSION

Applicants respectfully submit that since all of the pending claims contain subject matter considered by Applicants as allowable, that all of the claims and the application as a whole are in condition for allowance. Notice to such effect is respectfully requested.

If the Examiner considers that a telephone interview would be helpful to facilitate favorable prosecution of this application, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

No additional claims fees are believed due for the filing of this paper. However, if a fee is required, please charge the fee to Deposit Account No. 18-0988, Order No. AF01196.

Respectfully submitted,

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